

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EARL L. TABRON, JR.,

Plaintiff,

v.

RADIO SHACK, JOHN V. ROACH,
GEORGE KUNNEY AND
DARRYL J. FERRARA,

Defendants.

Civil Action No. 02-2695

**CERTIFICATION OF COUNSEL IN SUPPORT OF MOTION TO DISMISS
PURSUANT TO RULE 37(b)(2)(C) FOR FAILURE TO COMPLY WITH ORDER
COMPELLING DISCOVERY**

1. DAVID A. RAPUANO, of full age, certifies to the following:
2. I am an associate with the firm of Archer and Greiner, counsel of record for Defendants RadioShack and John V. Roach, (hereinafter "Defendants"), in the above-captioned matter.
3. On May 6, 2002, Plaintiff initiated this action by the filing of a Complaint which was served upon Defendants RadioShack Corporation and John V. Roach on or about May 20, 2002.
4. On May 9, 2003, Defendants served the Plaintiff with Interrogatories and a Request for Production of Documents. In addition, by way of the cover letter for such discovery, demand was made for Plaintiff's overdue Rule 26(a) initial disclosures. Responses were due on or before June 8, 2003. A true and correct copy of the letter is attached hereto as Exhibit A.
5. Having received no response, on June 11, 2003, Defendants' counsel sent a letter to Plaintiff requesting all overdue responses to discovery by June 18, 2003. A true and correct copy of the letter is attached hereto as Exhibit B.

6. After June 18, 2003 passed without Defendants receiving the overdue discovery, Defendants' counsel sent another letter to Plaintiff requesting the discovery responses by June 24, 2003. A true and correct copy of the letter is attached hereto as Exhibit C.

7. Defendant George Kuney and Defendants RadioShack and John V. Roach filed separate Motions to Compel Discovery on June 26 and June 27, 2003, respectively.

8. Plaintiff failed to respond to either Motion.

9. As a result of these Motions, on July 24, 2003, the Court entered two Orders requiring Plaintiff to furnish all outstanding discovery by August 7, 2003. These Orders informed Plaintiff that failure to comply could lead to sanctions, including dismissal of the Complaint.

10. Plaintiff failed to comply with the Court's July 24, Order. To date, Plaintiff has failed to provide Rule 26(a) initial disclosures or to respond in any way to Defendants' Interrogatories and Document Request.

11. Despite repeated requests in letters, Plaintiff has never contacted me to discuss this matter.

12. Since filing his Complaint in May 2002, Plaintiff has taken no action whatsoever to pursue his claims. Plaintiff has conducted no discovery nor has he cooperated with Defendants' efforts to conduct discovery.

13. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DAVID A. RAPUANO, ESQUIRE

CERTIFICATE OF SERVICE

I, DAVID A. RAPUANO, ESQUIRE, certify, under penalty of perjury, that the foregoing Defendants RadioShack and John V. Roach's Motion to Compel Plaintiff to Respond to Discovery was mailed by Regular and Certified mail, return receipt requested, on the date noted below to:

Earl L. Tabron, Jr., Pro Se
7329 Ogontz Avenue
Philadelphia, PA 19138

DAVID A. RAPUANO, ESQUIRE

Date: _____

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